HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD ROY SCOTT, Plaintiff, v. MARK STRONG, et al., Defendants.	CASE NO. C16-5031 RBL-KLS ORDER ON APPEAL FROM MAGISTRATE JUDGE'S ORDER [DKT.#19]

THIS MATTER is before the Court on Plaintiff Scott's Appeal [Dkt.# 19] from Magistrate Judge Strombom's Order requiring him to Show Cause or (for a third time) Amend his Complaint [Dkt. #15][1] Scott does not directly address the portion of Judge Strombom's Order that directs him to clarify and bolster his complaint to state a claim under §1983. He claims instead that Judge Strombom is biased against him and should be disqualified from the case. He argues that her requirement that an amendment include a "short and plain statement" of his claim

[1] The Order granted Scott's Motion to Amend a second time, and in consistent with the order the second amended complaint has been filed [Dkt. #16]. The Order declined to serve the complaint due to enumerated deficiencies, and instead ordered him to show cause why it should not be dismissed, or to amend the complaint again.

is a requirement that applies to Prison Litigation Reform Act claims, and emphasizes that he is not a prisoner.

Scott is mistaken about the source of the "short and plain statement" requirement—it comes from Fed. R. Civ. P. 8(a)(1), which applies to *all* federal complaints, including those in this case. The remainder of Judge Strombom's Order accurately and fairly sets forth what a viable complaint must allege and contain, even for a *pro se* litigant.

A plaintiff's complaint must allege facts to state a claim for relief that is plausible on its face. *See Aschcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). A claim has "facial plausibility" when the party seeking relief "pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id*. Although the Court must accept as true the Complaint's well-pled facts, conclusory allegations of law and unwarranted inferences will not defeat a Rule 12(c) motion. *Vazquez v. L. A. County*, 487 F.3d 1246, 1249 (9th Cir. 2007); *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001). "[A] plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. Factual allegations must be enough to raise a right to relief above the speculative level." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations and footnotes omitted). This requires a plaintiff to plead "more than an unadorned, the-defendant-unlawfully-harmed-me-accusation." *Iqbal*, 129 S. Ct. at 1949 (citing *Twombly*).

Scott's appeal of the Show Cause or Amend Order is DENIED, but the due date for his response to that order is EXTENDED to April 8.

Scott's Motion to Recuse Judge Strombom is properly addressed in the first instance to Judge Strombom herself. LCR3(e). If she declines to recuse voluntarily, she will refer the matter to the Chief Judge.

IT IS SO ORDERED.

Dated this 25th day of March, 2016.

Ronald B. Leighton
United States District Judge